

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF OCTOBER 2010

BEFORE :

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

WRIT PETITION No.1766/2010 (GM-RES)

Between :

H.N.Nagaraj,
S/o H.K.Narasimhegowda,
Aged about 57 years,
Occ: Tahasildar & Public Information
Officer, Chinthamani Taluk,
Chintamani,
Chikkaballapur Dist. .. Petitioner

(By Sri Basavaraj G.Godachi, Advocate)

And :

1. Karnataka Information Commission,
Represented by its
Authorised Representative,
M.S.Building, 3rd Stage,
3rd Floor, Dr.Ambedkar Street,
Bengaluru-560 001.
2. Smt.Bindra Adige,
Major, No.17, Reenias Street,
5A, Sukhi Apartment
Richmond Town,
Bengaluru-560 025. .. Respondents

(By Sri S.B.Shahapur, AGA for R-1)

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to call for the records in KIC 4669 COM 2008 on the file of the R1 KIC, direction in the like nature quash/set aside the order dated 2.12.2009 made in KIC 4669 COM 2008 passed by the R1 herein as per Annexure-A, being totally arbitrary, erroneous and not sustainable in law and dismiss the complaint of the R2 herein.

This Writ Petition coming on for preliminary hearing in 'B' group this day, the Court made the following :

ORDER

The respondent No.2 submitted an application seeking certain information from the office of the petitioner. She wanted to know as to whether the obligations of the public authorities as contained in Section 4 (1) (a) and Section 4 (1) (b) of Right to Information Act, 2005, have been discharged by the petitioner or not. Such an application came to be filed on 22.5.2008. However, the said information was not supplied to respondent No.2 by the Public Information Officer, Chintamani Taluk, but part of the information was given somewhere in the month of October 2008. Full particulars of the information was not supplied to respondent No.2. Consequently, enquiry was held by respondent No.1 based on the complaint lodged by

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respondent No.2. Petitioner appeared before the 1st respondent. However, he did not satisfactorily explain as to why the information was not supplied to respondent No.2. No document was produced before the 1st respondent to show that the petitioner has fulfilled the obligation imposed on him under the provisions of Section 4 (1) (a) and Section 4 (1) (b) of RTI Act. Thus, a show cause notice was issued to the petitioner by the 1st respondent seeking explanation as to why the penalty should not be imposed. In spite of sufficient opportunities, the petitioner did not appear and did not reply to the said show cause notice. Thereafter, the impugned order was passed as per Annexure-`A` imposing penalty of ₹25,000/- on the petitioner.

2. The records reveal that an order dated 21.3.2009 came to be passed by the 1st respondent directing the petitioner to supply necessary information to the 2nd respondent. In spite of the same, the full information is not supplied to the 2nd respondent by the petitioner. He did not even file objection to the show cause notice relating to



imposition of penalty. However, on 19.5.2009, the petitioner appeared and prayed for dropping the proceedings relating to imposition of penalty. He has also pleaded on that necessary information will be supplied to respondent No.2. Accepting the said contention of the petitioner, the 1st respondent directed the petitioner on 19.5.2009 to supply full information to the 2nd respondent within 30 days. In spite of the same, no information is supplied by the petitioner. On the next date of hearing i.e., on 27.8.2009, petitioner remained absent during enquiry. Thereafter, one more show cause notice was issued clarifying therein that penalty of ₹25,000/- will be imposed on him. In spite of the same, the petitioner remained absent and he did not reply to the said show cause notice. On the next date of hearing also i.e., on 3.12.2009 the petitioner remained absent during the course of enquiry.

3. From the aforementioned facts, it is clear that the petitioner has deliberately remained absent before the 1st respondent. In spite of giving sufficient opportunities, he has

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not supplied the necessary information to the 2nd respondent. It is no doubt true that the petitioner has assumed the charge on 13.11.2008 and part of the information was supplied prior to that date. However, full information as prayed by the 2nd respondent is not supplied by the petitioner in spite of direction by the 2nd respondent. The petitioner should have discharged his obligations as mentioned in Section 4 (1)(a) and 4 (1)(b) of RTI Act, 2005, within the stipulated period. The Act has come into force in the year 2005.

Section 4 of Right to Information Act, 2005 is preparatory to the actual enforcement of the Act. It enjoins all the public authorities to collect, maintain and computerise all the information available with them and publish the same in all media, electronic media and also through notice boards, public announcements. All this must be done within 120 days from the date of commencement of the Act so that the requests made for information are readily complied with thereafter within a prescribed period of 30 days. Therefore,

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the concerned authority should have complied with the obligation as contained in Section 4 (1)(a) and Section 4 (1)(b) of the RTI Act, within the stipulated period of 120 days from the date of commencement of the Act. In this matter, the predecessor of the petitioner has not done so. Be that as it may, the petitioner has taken charge of the office on 13.11.2008. At least, within 120 days from the date of he assuming the office, he could have fulfilled the statutory obligation. The petitioner being public servant has not fulfilled his statutory obligations. Hence he is rightly imposed with the penalty of ₹25,000/-. Hence, no interference is called for.

Accordingly, the writ petition is ***dismissed***.

**Sd/-
Judge**

*bk/nk